

## **REMARKS**

Applicant respectfully requests reconsideration of the present Application. Claims 1, 13, 25, 33, and 37 have been amended. Claims 1-48 are pending and are now in condition for allowance.

### **Summary of Examiner Interview**

Applicant would like to thank the Examiner for the interview conducted on September 4, 2007. During the interview the differences between the claims and the Bolik reference were discussed. Applicants stated that the Bolik reference did not describe buffering objects prior to transmission. The Examiner pointed to col. 6, l. 32 of Bolik as describing buffering.

### **Objections**

Claim 33 was objected to because it depended upon itself. Claim 33 has been amended to correct this informality and now depends on claim 25.

### **Rejections based on 35 U.S.C. § 112**

Claim 1 was rejected under 35 U.S.C. §112 because “the remote destination” in line 7 lacked an antecedent basis. Claim 1 has been amended to correct this deficiency, and withdrawal of the rejection under 35 U.S.C. §112 is respectfully requested.

### **Rejections based on 35 U.S.C. § 102 (e)**

#### **A. Applicable Authority.**

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdeggal*

*Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

**B. Claims 1-48 are not anticipated by US Patent No. 6,875,053.**

Claims 1-48 are rejected under 35 U.S.C. §102(e) as being anticipated by US Patent No. 6,875,053 to Bolik et al. (hereinafter “Bolik”). As Bolik does not describe, either expressly or inherently, each and every element of the rejected claims, Applicant respectfully traverses the rejection as hereinafter set forth.

Independent claim 1, as currently amended, recites a system for managing the transmission of data from at least one data source to a remote destination that comprises an input interface, a transport interface, and a communication engine. Among other things, the communication engine of claim 1 buffers “the message objects prior to transmission to the remote destination via the transport layer.” Bolik, on the other hand, describes a system for backing up data. Bolik tangentially discusses transferring data into the backup system. The data-transferring discussion in Bolik fails to describe each and every element in claim 1.

In particular, Bolik does not describe “buffering the message objects prior to transmission to the remote destination.” The Office Action points to column 6, lines 18-34 as teaching the buffering element. This section of Bolik discusses adding backup objects to the backup storage. The backup process starts when the backup client sends the back up object from the data source to the backup program 10 running on the backup server 2. *See* Bolik col. 6, ll. 4-8, FIG. 1, and step 150 of FIG. 4. As shown on Bolik’s FIG. 4, the remaining steps of the ADD

function are performed on the backup server and occur after the backup object has been transferred to the backup server. As part of the process, information about the object is entered into a transaction log. *See* Bolik col. 6, ll. 19-20, and FIG. 2a. The backup object is then written to the backup storage at step 158. In certain implementations, data may first be written to a transaction log prior to writing the object to the backup storage. *See* col. 6, ll. 31-32, col. 11, ll. 42-44. In alternate implementations a transaction log may not be used. *See* col. 11, ll. 44-45. Therefore, buffering as recited in claim 1 is clearly not described in Bolik.

In addition, the data transfer to the transaction log occurs after the backup object was transferred from the data source to a remote destination. This is in contrast to the buffering in claim 1 that occurs prior to transmitting the message object to the remote location. Accordingly, neither buffering in general, nor “buffering the message objection prior to transmission” in particular, is described in Bolik. Thus it is clear that Bolik does not describe each and every element of claim 1.

As Bolik fails to describe, either expressly or inherently, at least the buffering feature of claim 1, it is respectfully submitted that Bolik does not anticipate independent claim 1. Each of claims 2-12 depends, either directly or indirectly, from independent claim 1. Accordingly, Bolik fails to anticipate each of these claims for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1-12 is respectfully requested.

Regarding claims 13-48, each of independent claims 13, 25, and 37 have been amended to recite a buffering element that is prior to transmission, as in claim 1. As with claim 1, Bolik fails to describe, either expressly or inherently, at least this feature of claims 13, 25, and 37. Thus, it is respectfully submitted that Bolik does not anticipate these claims. Each of claims 14-24, 26-36, and 38-48 depends, either directly or indirectly, from independent claims 13, 25, or

37. Accordingly, Bolik fails to anticipate each of these claims for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(e) rejection of claims 13-48 is respectfully requested.

**Conclusion**

For at least the reasons stated above, claims 1-48 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or plujin@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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